

London Bombings: The Need for More Transit Security Funding and Support



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**Prepared by the Minority Staff of the
House Committee on Homeland Security
Representative Bennie G. Thompson
Ranking Member**

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America's public transportation systems are used 9.6 billion times a year, 32 million times a day, or 16 times more regularly than we use the domestic airlines.¹ As a result, transit security is a very important issue for America's transit riders.

What Democrats Have Been Doing

There are 5 key areas where Democrats in Congress have been pushing to improve rail and public transit security.

- 1) Democrats have pushed to hold the President to his promise to create a national transportation security plan, which is now 3 months overdue.
- 2) Democrats have pushed for dedicated funding for transit and rail security.
- 3) Democrats have pushed for legislation that would create stronger rail and public transit security programs, best practices in the industry, and whistleblower protections for employees who report security risks.
- 4) Democrats have pushed to better protect HAZMAT rail shipments passing through urban areas.
- 5) Democrats have pushed for better programs to train and prepare first responders and citizens to respond to a terrorist attack, including one on rail or public transit. Unfortunately, many of these initiatives have stalled or been rejected in the House.

Below is an outline of these issues. This report is an update of the report released May 2005 by the Minority Staff of the House Homeland Security Committee, under the direction of Ranking Member Bennie G. Thompson, entitled *Impact on Your State of Changes in Transit Security Funding*.

¹ "American Public Transportation Association," 2/7/05,
http://www.apta.com/media/releases/050207proposed_dhs_budget.cfm, accessed on 2/28/05

Failed Promise to Create a National Transportation Security Plan

- The Intelligence Reform and Terrorism Prevention Act of 2004 (P.L. 108-458—the “9/11 Act”), which was passed in December 2004 in order to fulfill many of the recommendations of the 9/11 Commission, directed the Department of Homeland Security (DHS) to create a national strategy for transportation security.²
- This plan was due to Congress on April 1, 2005.³
- This plan would identify national transportation assets, set risk-based priorities for their protection, assign responsibilities for their protection, and recommend appropriate levels and sources of funding for these efforts.⁴ The plan should include many provisions on rail and public transit.
- DHS Deputy Secretary Michael Jackson sent a letter on April 5, 2005 to Representative Bennie Thompson, Ranking Member of the House Committee on Homeland Security, stating that the plan would be ready in 2-3 months.⁵ That deadline has passed.
- The national transportation security plan has still not been provided to Congress.⁶
- Democrats have pushed DHS to complete more than 100 overdue reports and plans to Congress, including the transportation security report,⁷ and will continue doing so. Until a national transportation security plan is in place, rail, public transit, and other transportation areas will remain at risk.

² Passenger Rail Security: Overview of Issues, David Randall Peterman
Congressional Research Service Report # RL32625, (May 26, 2005).

³ *Id.*

⁴ *Id.*

⁵ The letter is available by contacting the Minority Staff of the House Committee on Homeland Security at (202) 226-2616.

⁶ Telephone interview by committee staff with Transit Security Administration Legislative Affairs Office (July 7, 2005).

⁷ “Thompson and Meek: Department of Homeland Security Fails to Meet Hundreds of Deadlines,” Press Release (March 10, 2005) available at http://www.house.gov/hsc/democrats/pdf/press/05mar/ThompsonMeekDHSreportdeadlines03_10_05.pdf. The list of overdue reports is available at http://www.house.gov/hsc/democrats/pdf/press/05mar/LetterBGTandMeektoChertoffredeadlines3_9_05.pdf.

Current Spending on Transit and Rail Security and Controversies Over It

- In FY 2005, Congress provided just \$150 million for transit and rail security grants.⁸ These grants are distributed by the Department of Homeland Security's Office of State and Local Government Coordination and Preparedness.
- Last month, the Senate Committee on Appropriations reduced the transit and rail security grants to \$100 million when it approved the FY 2006 Homeland Security Appropriations bill. The House passed version of the Fiscal Year 2006 Homeland Security Appropriations bill (HR 2360) maintained the current level of spending.
- The President's Fiscal Year 2006 budget proposes eliminating dedicated funding for transit and rail security grants and replacing them with one \$600 million "Targeted Infrastructure Protection Program" (TIPP). The TIPP would force rail and transit systems to compete for funds with ports and other transportation sectors that receive their own dedicated funding under the current system.
- Considering that public transportation security alone is estimated to cost some \$2 billion,⁹ the proposed \$600 million TIPP will not meet the security needs of our transportation system.
- In response to these needs, the House Appropriations Committee did not fund the proposed TIPP and instead funded the separate security grants contained in the Transit Security Grant Program. The DHS Appropriations bill passed the full house on May 17, 2005.
- The American Public Transportation Association has criticized the President's budget proposal, stating: *"We are disappointed that a specific line item for transit security was not provided in [the Targeted Infrastructure Protection Program's] budget, which is to be used for several different industries. Consequently, we are concerned about the uncertainty of DHS transit security funding."*¹⁰
- Edward Wytkind, President of the Transportation Trades Department AFL-CIO, has also criticized the proposal, stating: *"While government efforts have been focused on strengthening aviation security, too many other parts of our transportation system have been practically ignored. Ninety percent of the transportation security budget to aviation, leaving gaping holes in our ports, rails, mass transit systems, and in the shipment of hazardous materials."*¹¹

⁸ Fiscal Year 2005 Security Grant Program Guidelines and Application Kit, 2005, Rail transit received \$107,900,000; intra-city bus received \$22,357,076; ferry systems received \$5,000,000

⁹ Surface Transportation Report Homeland Security Committee Minority Staff, accessed 2/28/05

¹⁰ American Public Transportation Association Press Release, February 7, 2005

¹¹ Written statement given the Minority Staff of the House Committee on Homeland Security, February, 2005

Democratic Legislation to Create Stronger Rail and Public Transit Security

- Democrats in Congress have introduced two key pieces of legislation that will strengthen rail and public transit security programs: H.R. 4361 (introduced by Rep. Eleanor Holmes Norton (D-DC) in the 108th Congress) and H.R. 2351 (introduced by Rep. James Oberstar (D-MN) in the 109th Congress; introduced as H.R. 4896 in the 108th Congress). Additionally, Representative Robert Menendez (D-NJ) has introduced H.R. 153, The Rail and Mass Transportation Security Act of 2005, which seeks to authorize funds for the operating, capital, planning, training and R&D security needs of the nation's rail and public transit systems. Representative Juanita Millender-McDonald (D-CA) has also introduced H.R. 1116, the Public Transportation Systems Vulnerability Assessment and Reduction Act, which will require improved assessments of the vulnerability of public transit systems and provide grants for training transit employees and providing them with the technology they need to respond to an attack.
- The “best practices” and “public awareness” provisions of Ms. Norton’s bill were accepted by the Republicans in the Committee mark-up of the Department of Homeland Security Authorization Bill (H.R. 1817). Key portions of the Congresswoman’s bill, including providing the needed funding for transit security and giving whistleblower protection to workers who identify security risks were rejected. These measures are critical to protecting our transit systems.
- Congress has not moved to hold hearings or pass any of these Democratic bills in whole. In fact, when the Oberstar and Norton bills were combined in the Substitute to the Homeland Security Authorization Bill offered on the floor of the House by the Ranking Member of the House Committee on Homeland Security (D-MS) on May 18, 2005, they were rejected on mostly a partisan line vote.¹²
- As offered in the Substitute, the Oberstar/Norton proposals had the following provisions:
 - ***Improving security of passenger transportation systems including light rail, subways, buses, and commuter ferries:*** To reduce the vulnerability of passenger systems to terrorist attacks, this provision creates a three-year \$2.8 billion grant program to help provide: (1) cameras and other surveillance equipment; (2) command, control, and communications systems, including interoperable equipment; (3) training, technical support and exercises for public transportation employees on security awareness, prevention, emergency response including evacuation, and decontamination; (4) explosive and weapons of mass destruction detection and countermeasures, including canine detection teams; (5) capital improvements and operating activities to increase security of stations,

¹² House Roll Call Vote # 187 (May 18, 2005), available at <http://clerk.house.gov/evs/2005/roll187.xml>.

vehicles, bridges, and tunnels; (6) capital improvements and operating activities to improve survivability in the event of an attack, including improvements in ventilation, drainage, fire safety technology, lighting systems and accessibility by emergency response personnel; (7) emergency response and support equipment, including fire suppression and decontamination equipment; and (8) public awareness and outreach campaigns to the general public, passengers and employees. Grant recipients would be required to submit emergency response plans and undertake exercises for emergency response and public transportation employee training.

- ***Establishing “best practices” for passenger transportation systems:*** Requires the Secretary to develop and disseminate public transportation security best practices to passenger transportation systems operators.
- ***Increasing public awareness:*** Requires the Secretary to develop a national plan to increase awareness of measures the general public and public transportation passengers and employees can take to increase public transportation security.
- ***Strengthening employee protections:*** Ensures that public transportation employees are conferred whistleblower protections to come forward to report problems in the execution of security programs for train and other transit systems.
- ***Ensuring transportation security training:*** Requires the Department to establish the University Transportation Security Centers to conduct transportation research, education, and development of training programs.
- ***Creating a railroad security plan:*** Requires DHS and the Department of Transportation (DOT) to develop and implement a railroad security assessment, a railroad security plan, and prioritized recommendations for improving railroad security. DHS is also required to develop a national plan for public outreach and awareness and a study on passenger, baggage, and cargo screening.
- ***Adequately funding rail security:*** Authorizes more than \$1 billion to safeguard our Nation’s rail network from terrorist threats, \$500 million of which is authorized for grants to State and local governments, railroad carriers, rail labor, and others for costs incurred in preventing or responding to terrorist activities or other security threats to intercity passenger rail and freight rail service. This provision also authorizes \$50 million for DHS to create a research and development program to improve freight and intercity passenger rail security.

- Amtrak will also receive \$100 million for security upgrades, plus a total of \$597 million to make fire and life-safety improvements to tunnels on the Northeast Corridor in New York, New York, Baltimore, Maryland, and Washington, D.C. This funding is critical to protect Amtrak's 25 million passengers, two-thirds of whom travel along the Northeast Corridor.
- ***Training Rail Workers and Protecting Whistleblowers:*** Requires rail carriers to provide security training to key rail workers to ensure that they are prepared to take appropriate action against threat conditions. This provision also strengthens whistleblower protections to ensure that workers who report or identify a security risk will not face retribution or retaliation from their employers.
- ***Clarifying DHS and DOT roles:*** Requires the Secretary of Homeland Security and the Secretary of Transportation to execute a memorandum of agreement governing the roles and responsibilities of their Departments in addressing railroad transportation security matters.

Democratic Efforts to Secure HAZMAT Shipments on Rail

- Representative Edward Markey (D-MA) has introduced legislation, H.R. 1414, that would require rail shippers to re-route dangerous HAZMAT shipments around major urban areas when possible. Right now, thousands could die if a HAZMAT shipment containing dangerous chemicals, such as chlorine, was exploded along largely unprotected rail tracks inside major cities.
- When Mr. Markey offered his legislation as an amendment during the Committee mark-up of H.R. 1817, the Department of Homeland Security Authorization Bill, his amendment was rejected along party lines.

Democratic Efforts to Strengthen First Responders and Citizen Preparedness

First Responders

- First Responders need the training and equipment necessary to respond to terrorist attacks including specialized training in technical rescue.
- According to a 2003 study released by FEMA, 53% of all firefighters who are involved in technical rescue lack formal training to perform this function. Even in our largest cities, firefighters often lack this training with 27% lacking formal training in cities with a population over 1,000,000 and 25% lacking formal training in cities with a population between 500,000 and 999,999.
- The 9/11 Commission stated that interoperable communications is one of the most pressing needs related to emergency preparedness.

- Democrats have introduced a proposal by Representative Lowey (D-NY), H.R. 1251, to create a separate and direct funding source of \$5 billion over 5 years for providing first responders with interoperable communications equipment. When this legislation was offered as amendment to the “Faster and Smarter Funding for First Responders Act,” H.R. 1544, in Committee mark-up, it was rejected largely on a party-line vote. The legislation was also rejected along party lines when it was offered in the Homeland Security Committee’s mark-up of H.R. 1817, the Department of Homeland Security Authorization Bill.

Citizen Preparedness

- Individual citizens are often called upon to provide assistance to their fellow citizens during the immediate aftermath of any large incident.
- The Citizen Corps program helps to prepare citizens for many different types of incidents. Citizen Corps provides funding and guidance to local Citizen Corps Councils that work to ensure that average citizens are not only prepared for a terrorist attack, but can also aide their fellow citizens during the aftermath to any attack
- Representatives Bill Pascrell (D-NJ) and Sheila Jackson-Lee (D-TX) offered an amendment that would have strengthened the Citizen Corps program in the Committee mark-up of H.R. 1817, the Department of Homeland Security Department of Homeland Security Authorization Bill. Their amendment was rejected along party lines.